

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NO. 12-_____</b>
<b>v.</b>	<b>:</b>	<b>DATE FILED: <u>July</u>, 2012</b>
<b>ELSA FALASCHETTI</b>	<b>:</b>	<b>VIOLATIONS:</b>
	<b>:</b>	<b>18 U.S.C. § 371 (conspiracy to defraud</b>
	<b>:</b>	<b>the United States - 1 count)</b>
	<b>:</b>	<b>26 U.S.C. § 7206 (filing a false income</b>
	<b>:</b>	<b>tax return - 4 counts)</b>

**I N F O R M A T I O N**

**COUNT ONE**

**CONSPIRACY TO DEFRAUD THE UNITED STATES  
18 U.S.C. § 371**

**THE UNITED STATES ATTORNEY CHARGES THAT:**

At all times material to the indictment:

1. Uri Jacobson, charged elsewhere, was the co-owner and operator of approximately twelve retail clothing and shoe stores, here collectively called the “Bare Feet Shoes” stores, in the Philadelphia and New Jersey region. The Bare Feet Shoes’ corporate headquarters was located on Easton Road in Wyncote, PA. The retail stores were operated under the following corporate entities: Bare Feet Shoes of Pa, Inc. (BFS-PA); Bare Feet Shoes and Accessories, LLC, (BFS & A); Shore Bare Feet Shoes, Inc. (Shore BFS); South Jersey Bare Feet Shoes, Inc. (SJ BFS); and New Jersey Bare Feet Shoes, Inc. (BFS-NJ).

2. Uri Jacobson’s retail stores employed in excess of 200 employees.

Defendant ELENA FALASCHETTI was Jacobson’s office manager.

3. As an employer, Uri Jacobson was required by federal law to collect,

truthfully account for, and pay over to the United States, certain payroll taxes, including his employees' withheld federal income taxes ("FIT") and Federal Insurance Contribution Act taxes ("FICA"), that is, social security and medicare taxes. Jacobson also was required by federal law to pay over to the United States from his own funds a matching amount of the FICA taxes for each employee.

4. Federal law also required Uri Jacobson to report the FIT and FICA withholdings for his employees, and the matching employer-paid FICA withholdings, on each of his corporate entities' quarterly corporate income tax returns, Internal Revenue Service Forms 941.

### **THE CONSPIRACY**

5. From in or about 2003 and continuing through in or about August 2009, in the Eastern District of Pennsylvania and elsewhere, defendant

### **ELENA FALASCETTI**

conspired and agreed, together with others known and unknown to the grand jury, to knowingly defraud the United States by impeding, impairing, obstructing, and defeating the lawful governmental functions of the Internal Revenue Service ("IRS") of the Department of Treasury in the ascertainment, computation, assessment, and collection of revenue.

## **MANNER AND MEANS**

It was part of the conspiracy that:

6. Uri Jacobson hired employees for his Bare Feet Shoes stores and decided whether they would be paid an hourly wage or a salary, which he determined. Jacobson decided to pay some of his employees, in whole or in part, “under the table,” that is, without federal income taxes and federal social security and medicare taxes being withdrawn from their wages and paid to the IRS.

7. On a bi-weekly basis, Uri Jacobson caused his office employees, including defendant ELENA FALASCHETTI, to report to Paychex, Bare Feet Shoes’ payroll service company, the salary or hours worked and wages per hour for those employees defendant Jacobson determined would be paid by check and for whom federal income, social security, and medicare taxes would be withheld. Paychex then created payroll checks for Jacobson’s employees and supplied those checks to the Bare Feet Shoes office. Paychex also calculated the appropriate federal income taxes and social security and medicare taxes to be paid on those wages and paid the taxes to the IRS on Bare Feet Shoes’ behalf. Paychex also created Internal Revenue Service Forms 941, quarterly corporate income tax returns, for Jacobson’s corporate entities,

8. Uri Jacobson also decided how to pay the employees he determined would receive “under the table” wages which were not reported to the IRS and from which no federal taxes were withheld or paid to the IRS. Jacobson directed his office employees, including defendant ELENA FALASCHETTI, to create Bare Feet Shoes’ payroll checks in addition to the payroll checks created by Paychex, and directed that cash payroll be set aside for employees. Jacobson directed his employees, including defendant FALASCHETTI, not to report the Bare Feet

Shoes payroll checks or payroll cash to Paychex, and directed FALASCETTI and other employees not to deduct and pay to the IRS federal income taxes and social security and medicare taxes from those wages.

9. Uri Jacobson caused his employees to distribute the payroll checks created by Paychex and the Bare Feet Shoes payroll checks and cash in sealed envelopes to employees as he directed. At times, Jacobson himself distributed cash payroll and Bare Feet Shoes payroll checks to employees.

10. Uri Jacobson never paid over to the IRS his employer's matching share of the social security and medicare taxes which should have been withheld on the "under the table" payroll.

11. By causing his employees not to report the "under the table" wages to Paychex, Uri Jacobson used Paychex to create of false quarterly corporate income tax returns, IRS forms 941, which did not report the FIT and FICA withholdings, and the matching employer-paid FICA taxes, which should have been identified and paid to the IRS for the "under the table" wages paid to his employees.

12. Uri Jacobson caused his office employees, including defendant ELENA FALASCETTI, to record the payroll checks created by Bare Feet Shoes in the company's "Peachtree" accounting system as "payroll." Jacobson's own corporate records show that between 2004 and approximately September 2009, Bare Feet shoes paid out a total of approximately \$2,787,640 in gross wages which were not reported to the IRS and from which federal income taxes and social security and medicare taxes were not withheld and paid to the IRS. Jacobson's failure to withhold and pay over his employees full federal taxes, and his failure to pay his employer's

matching share of the social security and medicare taxes, caused a tax loss of approximately \$596,628.

### **OVERT ACTS**

In furtherance of the conspiracy, defendant ELENA FALASCETTI and others known and unknown to the grand jury, committed the following overt acts, among others, in the Eastern District of Pennsylvania and elsewhere:

1. Uri Jacobson directed his employees, including defendant ELENA FALASCETTI, to report to Paychex, Bare Feet Shoes' payroll service company, only the salary or hours worked and wages per hour for those employees Jacobson determined would be paid by check and for whom federal income, social security, and medicare taxes would be withheld. Jacobson directed defendant FALASCETTI and others to create Bare Feet Shoes' payroll checks in addition to the payroll checks created by Paychex, and directed that cash payroll be set aside for employees. Jacobson directed his employees, including defendant FALASCETTI, not to report the Bare Feet Shoes payroll checks or payroll cash to Paychex, and directed FALASCETTI and other employees not to deduct and pay to the IRS federal income taxes and social security and medicare taxes from those wages.

2. Jacobson and defendant ELENA FALASCETTI caused Paychex to create and file on Bare Feet Shoes companies' behalf quarterly corporate income tax returns, IRS Forms 941, which did not identify the "under the table" wages paid by cash and check to Jacobson's employees, and did not identify the federal income tax and social security and medicare taxes which Jacobson and defendant FALASCETTI should have had withheld and paid over to the United States on behalf of those employees, each tax return filing for each company being an overt act as more fully described below:

<b><u>BFS - PA</u></b>		<b><u>BFS - NJ</u></b>		<b><u>SHORE BFS</u></b>		<b><u>BFS &amp; A</u></b>		<b><u>SJ BFS</u></b>	
Overt Act	Date Filed	Overt Act	Date Filed	Overt Act	Date Filed	Overt Act	Date Filed	Overt Act	Date Filed
1	7/31/2006	2	7/31/2006	3	7/31/2006	4	7/31/2006	5	7/31/2006
6	10/31/2006	7	10/31/2006	8	10/31/2006	9	10/31/2006	10	10/31/2006
11	1/31/2007	12	1/31/2007	13	1/31/2007	14	1/31/2007	15	1/31/2007
16	4/30/2007	17	4/30/2007	18	4/30/2007	19	4/30/2007	20	4/30/2007
21	7/31/2007	22	7/31/2007	23	7/31/2007	24	7/31/2007	25	7/31/2007
26	10/31/2007	27	10/31/2007	28	10/31/2007	29	10/31/2007		
30	1/31/2008	31	1/31/2008	32	1/31/2008	33	1/31/2008		
34	4/30/2008	35	4/30/2008	36	4/30/2008	37	4/30/2008		
38	7/31/2008	39	7/31/2008	40	7/31/2008	41	7/31/2008		
42	10/31/2008	43	10/31/2008	44	10/31/2008	45	10/31/2008		
46	1/31/2009	47	1/31/2009	48	1/31/2009	49	1/31/2009		
50	4/30/2009	51	4/30/2009	52	4/30/2009	53	4/30/2009		
54	7/31/2009	55	7/31/2009	56	7/31/2009	57	7/31/2009		
58	10/31/2009	59	10/31/2009	60	10/31/2009	61	10/31/2009		

All in violation of Title 18, United States Code, Section 371.

**COUNT TWO**

**FILING A FALSE TAX RETURN  
26 U.S.C. § 7206(1)**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

On or about April 15, 2007, in the Eastern District of Pennsylvania, defendant

**ELSA FALASCETTI**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2006, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant **FALASCETTI** did not believe to be true and correct as to every material matter, in that the return reported adjusted gross income of \$5,937, when in fact, as **FALASCETTI** well knew, she had received additional taxable income of approximately \$37,095 from her job with Bare Feet Shoes.

In violation of Title 26, United States Code, Section 7206(1)

**COUNT THREE**

**FILING A FALSE TAX RETURN  
26 U.S.C. § 7206(1)**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

On or about April 15, 2008, in the Eastern District of Pennsylvania, defendant

**ELSA FALASCETTI**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2007, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant **FALASCETTI** did not believe to be true and correct as to every material matter, in that the return reported adjusted gross income of \$23,283, when in fact, as **FALASCETTI** well knew, she had received additional taxable income of approximately \$28,385 from her job with Bare Feet Shoes.

In violation of Title 26, United States Code, Section 7206(1)



**COUNT FOUR**

**FILING A FALSE TAX RETURN  
26 U.S.C. § 7206(1)**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

On or about May 29, 2009, in the Eastern District of Pennsylvania, defendant

**ELSA FALASCETTI**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2008, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant **FALASCETTI** did not believe to be true and correct as to every material matter, in that the return reported adjusted gross income of \$24,700, when in fact, as **FALASCETTI** well knew, she had received additional taxable income of approximately \$32,625 from her job with Bare Feet Shoes.

In violation of Title 26, United States Code, Section 7206(1)

**COUNT FIVE**

**FILING A FALSE TAX RETURN  
26 U.S.C. § 7206(1)**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

On or about April 15, 2010, in the Eastern District of Pennsylvania, defendant

**ELSA FALASCETTI**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2009, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant **FALASCETTI** did not believe to be true and correct as to every material matter, in that the return reported adjusted gross income of \$ 37,610, when in fact, as **FALASCETTI** well knew, she had received additional taxable income of approximately \$23,555 from her job with Bare Feet Shoes.

In violation of Title 26, United States Code, Section 7206(1)

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**ZANE DAVID MEMEGER**  
**United States Attorney**